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E-Filed 12/29/06

Attorneys for Douglas Carson

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In Re:
USA COMMERCIAL MORTGAGE CO.,
Debtor.

Case Nos. BK-S-06-10725LBR
Case Nos. BK-S-06-10726LBR
Case Nos. BK-S-06-10727LBR
Case Nos. BK-S-06-10728LBR
Case Nos. BK-S-06-10729LBR

In Re:
USA CAPITAL REALTY ADVISORS,
LLC,
Debtor.

Chapter 11
Jointly Administered Under
Case No. BK-S-06-10725 LBR

In Re:
USA CAPITAL DIVERSIFIED TRUST
DEED FUND, LLC,
Debtor.

**RESPONSE TO OMNIBUS
OBJECTION TO MISFILED CLAIMS**

In Re:
USA CAPITAL FIRST TRUST DEED
FUND, LLC,
Debtor.

**Hearing Date: January 3, 2007
Hearing Time: 9:30 a.m.**

In Re:
USA SECURITIES, LLC.,
Debtor.

Affects:
☐ All Debtors
☐ USA Commercial Mortgage Company
☐ USA Capital Realty Advisors, LLC
☒ USA Capital Diversified Trust Deed Fund,
LLC
☐ USA First Trust Deed Fund, LLC
☐ USA Securities, LLC

1 Douglas Carson ("Carson") hereby responds to the Omnibus Objection Of The
2 Official Committee Of Equity Security Holders of USA Capital Diversified Trust Deed
3 Fund, LLC To Claims On Equity Misfiled As Creditor Claims ("Objection").

4 On or about November 3, 2006, Carson filed a proof of claim for \$1,119.58. Exhibit
5 A attached hereto. Appended to the Proof of Claim is a copy of page 3 of 10 pages on
6 schedule F filed by debtor USA Capital Diversified Trust Deed Fund, LLC. The schedule F
7 entry is not disputed, not contingent and not unliquidated. Attached as Exhibit B is a copy
8 of Carson's bank statement demonstrating that his account was charged because the check
9 was not honored, together with a copy of the check. A copy of the USA Capital Diversified
10 Trust Deed Fund, LLC. check is attached to Exhibit B.

11 There is no legitimate basis for an objection to this claim as an unsecured claim.
12 Although the Objection makes the blanket statement that all of the claims should be
13 reclassified as equity interests, there is no analysis as to why a claim on a dishonored check
14 should be reclassified as equity.

15 Carson requests that the Objection be overruled as to his unsecured claim for
16 \$1,119.58.

17 Dated this 29th day of December, 2006.

18 HARTMAN & HARTMAN

19 /s/ Jeffrey L. Hartman
20 Jeffrey L. Hartman, Esq.
21 Attorney for Douglas Carson
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EXHIBIT A

FORM B10 (Official Form 10) (10/05)

UNITED STATES BANKRUPTCY COURT		DISTRICT OF NEVADA	PROOF OF CLAIM
Name of Debtor USA CAPITAL DIVERSIFIED TDF		Case Number 06-10727-LBR	
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.			
Name of Creditor (The person or other entity to whom the debtor owes money or property): DOUGLAS CARSON		<input type="checkbox"/> Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case. <input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court.	
Name and address where notices should be sent: HC 34 BOX 34153 ELY, NEVADA 89301			
Telephone number:		THIS SPACE IS FOR COURT USE ONLY	
Last four digits of account or other number by which creditor identifies debtor:			
Check here <input type="checkbox"/> replaces if this claim <input type="checkbox"/> amends a previously filed claim, dated: _____			
1. Basis for Claim <input type="checkbox"/> Goods sold <input type="checkbox"/> Services performed <input type="checkbox"/> Money loaned <input type="checkbox"/> Personal injury/wrongful death <input type="checkbox"/> Taxes <input type="checkbox"/> Other _____			
<input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. § 1114(a) <input type="checkbox"/> Wages, salaries, and compensation (fill out below) Last four digits of your SS #: _____ Unpaid compensation for services performed from _____ to _____ (date) (date)			
2. Date debt was incurred:		3. If court judgment, date obtained:	
4. Classification of Claim. Check the appropriate box or boxes that best describe your claim and state the amount of the claim at the time case filed. See reverse side for important explanations. Unsecured Nonpriority Claim \$1,119.58 <input type="checkbox"/> Check this box if: a) there is no collateral or lien securing your claim, or b) your claim exceeds the value of the property securing it, or if c) none or only part of your claim is entitled to priority.			
Unsecured Priority Claim <input type="checkbox"/> Check this box if you have an unsecured claim, all or part of which is entitled to priority. Amount entitled to priority \$ _____ Specify the priority of the claim: <input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B) <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,000)* earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4). <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5).		Secured Claim <input type="checkbox"/> Check this box if your claim is secured by collateral (including a right of setoff). Brief Description of Collateral: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other _____ Value of Collateral: \$ _____ Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ _____	
<input type="checkbox"/> Up to \$2,225* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8). <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(____). *Amounts are subject to adjustment on 4/1/07 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.			
5. Total Amount of Claim at Time Case Filed:		\$ _____ (unsecured) _____ (secured) _____ (priority) \$1,119.58 (Total)	
<input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.			
6. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.		THIS SPACE IS FOR COURT USE ONLY	
7. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.			
8. Date-Stamped Copy: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.			
Date 11/03/06	Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any): <i>Jeffrey L. Hartman</i> Attorney in fact JEFFREY L. HARTMAN		

In re **USA Capital Diversified Trust Deed Fund, LLC**Case No. **06-10727-LBR**

Debtor

(If known)

SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME AND MAILING ADDRESS INCLUDING ZIP CODE	CODEBTOR		CONTINGENT	
	HUSBAND, WIFE, JOINT OR COMMUNITY		UNLIQUIDATED	
	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM, IF CLAIM IS SUBJECT TO SETOFF, SO STATE		DISPUTED	AMOUNT OF CLAIM
Vendor No. 11605 s19915 BRYAN L FIDLER AND DAWN E LUCAS 100 S BUFFALO DR #120 LAS VEGAS, NV 89117		GOODS, SERVICES, TRADE PRE-PETITION OUTSTANDING CHECK (ACCTNBR: 11605 / CHECKNBR: 39236)		\$420.54
Vendor No. 3012 s19865 CAROL ANN TURNER 10538 SOPRA COURT LAS VEGAS, NV 89135		GOODS, SERVICES, TRADE PRE-PETITION OUTSTANDING CHECK (ACCTNBR: 3012 / CHECKNBR: 26527)		\$937.64
Vendor No. 12416 s19871 CYNTHIA DEITZ 1973 N NELLIS #180 LAS VEGAS, NV 89115		GOODS, SERVICES, TRADE PRE-PETITION OUTSTANDING CHECK (ACCTNBR: 12416 / CHECKNBR: 29120)		\$264.01
Vendor No. 1674 s19886 DAWN MARIE TUFFANELLI 2260 MOHIGAN WAY LAS VEGAS, NV 89109		GOODS, SERVICES, TRADE PRE-PETITION OUTSTANDING CHECK (ACCTNBR: 1674 / CHECKNBR: 37971)		\$1,352.03
Vendor No. 13216 s19873 DELANA D NELSON 3045 NATALIE DRIVE RENO, NV 89509		GOODS, SERVICES, TRADE PRE-PETITION OUTSTANDING CHECK (ACCTNBR: 13216 / CHECKNBR: 29963)		\$468.22
Vendor No. 13216 s19875 DELANA D NELSON 3045 NATALIE DRIVE RENO, NV 89509		GOODS, SERVICES, TRADE PRE-PETITION OUTSTANDING CHECK (ACCTNBR: 13216 / CHECKNBR: 30603)		\$480.21
Vendor No. 14762 s19878 DONNA J HELLWINKLE 4555 SADDLEHORN DRIVE RENO, NV 89511		GOODS, SERVICES, TRADE PRE-PETITION OUTSTANDING CHECK (ACCTNBR: 14762 / CHECKNBR: 36851)		\$741.30
Vendor No. 354 s19897 DOUGLAS W CARSON HC 34 BOX 34153 ELY, NV 89301		GOODS, SERVICES, TRADE PRE-PETITION OUTSTANDING CHECK (ACCTNBR: 354 / CHECKNBR: 38750)		\$1,119.58
Vendor No. 16453 s19872 EDGAR WOLF 3868 CARLTON DR ATLANTA, GA 30341		GOODS, SERVICES, TRADE PRE-PETITION OUTSTANDING CHECK (ACCTNBR: 16453 / CHECKNBR: 29349)		\$232.76

EXHIBIT B

WELLS FARGO BANK NEVADA
PO BOX 53470
PHOENIX, AZ 85072-3470

WELLS
FARGO

DOUGLAS W CARSON, TTEE
DOUGLAS W CARSON TRUST
HC 34
BOX 34153
ELY NV 89301

ITEMS ENCLOSED: 1

PAGE 1 OF 1 ACCOUNT CHARGED [REDACTED] 69

DATE: 04-25-2006

YOUR ACCOUNT HAS BEEN CHARGED FOR THE FOLLOWING ITEM(S) RETURNED UNPAID.

	REASON FOR NON-PAYMENT	SEQUENCE #	AMOUNT
DEPOSITORY ACCOUNT NUMBER: [REDACTED] 69			
CHARGES FOR PAPER RETURNS	Account Closed	3430252411	1,119.58
TOTAL CHARGES FOR PAPER RETURNS			1,119.58

TOTAL CHARGES FOR PAPER RETURNS
TOTAL FEES

1,119.58
7.00

SHOULD YOU HAVE ANY QUESTIONS OR REQUIRE ADDITIONAL INFORMATION, PLEASE CALL THE
PHONE NUMBER THAT IS LISTED ON YOUR BANK STATEMENT.

SECURITY WARNING: THE FACE OF THIS DOCUMENT FEATURES A COLORED BACKGROUND AND MICROPRINT BORDERS - THE REVERSE SIDE FEATURES ARTIFICIAL WATERMARKS

USA CAPITAL DIVERSIFIED
TRUST DEED FUND LLC
4484 PECOS ROAD
LAS VEGAS, NV 89121
PH. (702) 734-2400

NSB NEVADA STATE BANK
P.O. BOX 990
LAS VEGAS, NEVADA 89125-0990
www.nsb.com

38750
94-7711224

DATE 3/16/2006
AMOUNT 1,119.58

One Thousand One Hundred and Nineteen Dollar(s) and Fifty Eight Cents *****

TO THE ORDER OF THE
Douglas W. Carson, TTEE
H54 Box 34153
Las Vegas NV 89301

Richard D. Clark
AUTHORIZED SIGNATURE

⑈038750⑈ ⑆122400779⑆0552016670⑈

⑈0000111958⑈